

REMARKS/ARGUMENTS

Claims 7-10 and 30-49 are active in this application. Support for Claims 30-49 is found in Claims 5 and 6 and the specification on pages 19, and 35-36 as originally filed. No new matter is added.

Applicants wish to thank Examiners Ford and Navarro for the courteous discussion granted to Applicants' representative on May 5, 2004. During this discussion the biological deposit issue under 35 U.S.C. §112, first paragraph and the prior art rejections under Bannantine were discussed. The substance of this discussion and Applicants' further comments are elaborated upon in the following remarks.

The rejection of Claims 7-8 under 35 U.S.C. §102(a) over Bannantine is respectfully traversed.

Bannantine is described on page 3 of the specification. Bannantine describes cloning genes to use as antigens to produce antibodies which are then used to detect membrane bound antigens of Chlamydia inclusion membranes (see page 45 of Bannantine). Bannantine, however, does not describe anything relating to the detection of secreted proteins but rather the detection of membrane bound proteins.

The Examiner's attention is also drawn to the present specification on page 14 which defines the term "secreted chlamydial polypeptide" as "a Chlamydia protein, or fragment of the protein, comprising at least 30 amino acids, **detectable outside the bacteria.**" The phrase "outside the bacteria" is also defined on page 14 of the present specification: "is understood to mean that a certain portion of the polypeptide of the invention produced by the bacteria has crossed the inner membrane, the periplasm and the outer membrane of the bacteria and is either still bound to the outer membrane, found in the extra cellular medium or found inside the host cell." Therefore, notwithstanding the Examiner's position that the term "secretion" in the claims can be broadly defined to include the expression of the INC genes in

E. coli and subsequent lysis of the cells for purification (column 1, page 45 of Bannantine), Bannantine do not describe detecting the secretion of the DNA expression product as claimed. Accordingly, withdrawal of this ground of rejection is requested.

The rejection of Claims 7-10 under 35 U.S.C. §103(a) over Bannantine in view of Demers et al. is respectfully traversed.

The deficiencies of Bannantine are discussed above. Demers et al. describe that shigella bacteria have a type III secretion pathway but do not compensate for the deficiencies of Bannantine, i.e., no description for detecting the secretion of the DNA expression product as claimed. Therefore, even in combination Bannantine and Demers et al. fail to describe or suggest the claimed invention. As a result, the present claims would not have been obvious in view of the combination of these publications.

Withdrawal of these grounds of rejection is requested.

The rejection of Claims 7-10 under 35 U.S.C. §112, first paragraph is respectfully traversed.

As noted during the discussion *C. pneumoniae* strain TW183 is publicly available at the American Type Culture Collection as described on page 26 of the present application. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The specification has been amended as appropriate. Pages 26 and 36 have been amended to provide trademark identifiers. The specification on page 27 containing sequences was previously amended via the Preliminary Amendment, which was filed on July 8, 2002. For reference, a copy of the Preliminary Amendment is attached. Further, the Examiner indicated that drawings containing sequences were not identified in the Sequence

Listing. However, as shown in the attached copies of the drawings filed with this application there are no sequences in Figures 2 and 3. The hyperlink references on pages 29 and 35-36 have been removed.

Applicants also request allowance of this application.

Respectfully submitted,

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